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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/328,171	06/08/1999	BRENT K. PARRISH	062891.0284	6443
7590	05/10/2005		EXAMINER	
CHRISTOPHER W KENNERLY BAKER & BOTTS LLP 2001 ROSS AVENUE DALLAS, TX 752012980			DUONG, DUC T	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/328,171

Applicant(s)

PARRISH ET AL.

Examiner

Duc T. Duong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11,12,14-18,20,21,24,26,37,38,40-44,53,54,56-60,62-65 and 67-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11,12,14-18,20,21,24,26,37,38,40-44,53,54,56-60,62-65 and 67-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 11, 12, 14-18, 20, 21, 24, 26, 37, 38, 40-44, 53, 54, 56-60, 62-65, and 67-71 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original disclosure fails to teach each position corresponding to a particular receiver "**independent of the value for that position**" as recited in claims 11 (lines 10 and 14), claim 26 (line 9), claim 37 (lines 5 and 16), claim 67 (line 7), claim 68 (line 5), claim 69 (lines 6), claim 70 (line 6), and claim 71 (line 6). This is new matter.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 16, 42, 58, 64, 67, 68, 70, and 71 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsumoto et al (U.S. Patent 5,351,294).

Regarding to claims 67, 68, 70, and 71, Matsumoto discloses a telecommunication device, comprising a local area network 106 (Fig. 1 col. 5 lines 51-52); a plurality of receivers (user terminals 107, 110, 116, 120, and 124) coupled to the network (Fig. 1 col. 5 lines 53-55); a sender (service station 101) coupled to the network (Fig. 1 col. 5 lines 48-50) and operable to generate a message packet 601 comprising a destination code 604 and a data packet 606, the destination code having plurality of position (table 607), each position corresponding to a particular a receiver independent of the value for that position (Fig. 6 col. 8 lines 16-32), the sender operable to identify one or more receivers for the data packet according to the values of the positions corresponding to the receivers and to communicate the data packet to the identified receivers (Fig. 6 col. 8 lines 33-40).

Regarding to claims 16, 42, 58, and 64, Matsumoto discloses the sender is operable to communicate the data packet to one or more receivers as a multicast message (Fig. 1 col. 5 lines 45-46).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 24, 26, and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acampora et al (U.S. Patent 4,593,282) in view of Matsumoto.

Regarding to claims 26 and 69, Acampora discloses a telecommunication device, comprising a local area network (col. 1 lines 15-25); a sender 101-103 coupled to the network (Fig. 1 col. 4 lines 66-67 and col. 5 lines 1-6) and operable to generate a message packet 501 comprising an arbitration code 514 (contention bits) and a data packet 510 (Fig. 5 col. 6 lines 47-62), the sender operable to communicate a first value (most significant bit) of the arbitration code using the network and to determine a network value (col. 7 lines 16-19, the bus value), the sender operable to compare the first value with the network value to determine whether the sender may communicate the data packet using the network (col. 7 lines 19-27); and a plurality of receivers 101-103 also coupled to the network (Fig. 1 col. 4 lines 66-67 and col. 5 lines 1-6), the message further comprising a destination code 512 having values for a plurality of positions, wherein the sender identifying a receiver for the message packet according to the values of the positions corresponding to the receiver (Fig. 5 col. 6 lines 54-56).

Acampora fails to teach for the destination code comprising a plurality of positions with each position corresponding to a particular receiver independent value for that position and wherein each receiver has an associated received code and each receiver operable to receive the destination code and to compare the value for at least one position of the destination code with the value for at least one position of the receive code, each receiver operable to determine whether to receive the data packet according to the comparison.

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However, Matsumoto discloses a multicast communication system comprising a destination code 604 with a plurality of positions (table 607), each position corresponding to a station addresses A-D independent value for that position (Fig. 6 col. 8 lines 16-32); and a plurality of receivers 107, 110, 116, 120, and 124 (Fig. 1 col. 5 lines 53-55), wherein each receiver has a received code (0 or 1) and each receiver operable to receive the destination code and to compare the value for at least one position of the destination code with the value for at least one position of the receive code (Fig. 6 col. 32 lines 33-40), each receiver operable to determine whether to receive the data packet according to the comparison (Fig. 6 col. 8 lines 40-48).

Thus, it would have been obvious to one of ordinary skilled in the art, at the time of the invention, to include the destination code with a plurality of positions and each position corresponding to each receiver as taught by Matsumoto in Acampora's system for simultaneous transmission of identical message to a plurality of arbitrarily designated stations. The motivation to do so would have been to improved transmission efficiency in which data can be sends in one single transmission, instead of multiple times, to a plurality of specified stations.

Regarding to claim 24, Acampora discloses the data packet is operable to be communicated to one or more receivers as a point-to-point message (col. 5 lines 28-31).

7. Claims 14, 20, 40, 56, 60, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acampora and Matsumoto in view of Ganesh et al (U.S. Patent 6,553,000 B1).

Regarding to claims 14, 20, 40, 56, and 62, Acampora and Matsumoto discloses all the limitation with respect to claims 67, 26, 68, 70, and 71, respectively, except for the device is a switching unit comprising a backplane and a control bus. However, Ganesh discloses a switching device with channel cards (backplane) and control bus (Fig. 2 col. 4 lines 6-10 and lines 55-59). Thus, it would have been obvious to one of ordinary skilled in the art to employ the switching device as taught by Ganesh in Acampora and Matsumoto's system to provided intermediate stations that establish temporary connections between communication devices. The motivation to do so would have been to forward network traffic over a vast geographic area.

8. Claim 15, 21, 41, 57, and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acampora and Matsumoto in view of Rothschild et al (U.S. Patent 5,822,523).

Regarding to claims 15, 21, 41, 57, and 63, Acampora and Matsumoto discloses all the limitation with respect to claims 67, 26, 68, 70, and 71, respectively, including the message packet is of a physical layer message (Fig. 6 col. 8 lines 16-32 of Matsumoto). Acampora and Matsumoto fail to teach the data packet comprises a message packet associated with a higher level protocol comprising one of Internet Protocol IP, Transmission Control Protocol TCP, and User Datagram Protocol UDP.

However, Rothschild discloses a computer network system with message packet using one of Internet Protocol IP; Transmission Control Protocol TCP; and User Datagram Protocol UDP (col. 3 lines 41-44).

Thus, it would have been obvious to one of ordinary skilled in the art, at the time of the invention, to include a message packet using one of the above protocols as taught by Rothschild in Acampora and Matsumoto's system to provided different connection services. The motivation to do so would have been to enable various applications to select which connection services is best suited for transmission.

Response to Arguments

9. Applicant's arguments filed February 2, 2005 have been fully considered but they are not persuasive. Regarding to applicant's argument with respect to the 35 U.S.C. 112 rejection that the original specification indeed discloses of each position corresponding to a particular receiver **"independent of the value for that position"** as recited on page 17 lines 4-24. In response, the examiner has thoroughly reviewed the recited description on page 17 lines 4-24 of the specification but firmly believes the recited description does not reasonably conveys the limitation of each position corresponding to a particular receiver **"independent of the value for that position"**. The examiner find there are no adequate description supporting such limitation. Merely directing to the cited page and lines without specifically pointing out how the language of the specification teach of the subject matter is insufficient. The response submitted by the applicant fails to provide an adequate argument to traverse the rejection. Regarding to applicant's argument that Matsumoto is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

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See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Matsumoto is an analogous art like applicant's claimed invention in that Matsumoto discloses a communication system between a sender and a plurality of receivers using a message packet comprising a destination code having values for a plurality of positions corresponding to receivers. Regarding to applicant's arguments with respect to claims 11, 12, 17, 18, 37, 38, 43, 44, 53, 54, 59, 60, and 65, Matsumoto fails to teach **"each receiver has an associated receive code comprising values for a plurality of positions, each position corresponding to a particular receiver, each receiver operable to receive the destination code and to compare the value for at least one position of the destination code with the value for at least one position of the receive code, each receiver operable to determine whether to receive the data packet according to the comparison"** have been fully considered and are persuasive. The rejections of the claims have been withdrawn.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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RICKY NGO
PRIMARY EXAMINER

5/5/05